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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/655,091 09/05/00 MESETH

J GR 98 P 3112

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PM82/1022

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EXAMINER
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LERNER AND GREENBERG PA  
2445 HOLLYWOOD BOULEVARD  
HOLLYWOOD FL 33020

KEITH, J	
ART UNIT	PAPER NUMBER

3641

DATE MAILED:

10/22/01

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/655,091**

Applicant(s)  
**Meseth**

Examiner  
**Jack K ith**

Art Unit  
**3641**



-- Th MAILING DATE of this communication appears on the cover sheet with the correspondenc address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on Sep 5, 2000

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-14 is/are pending in the applica

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from considera

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☒ Claims 1-14 are subject to restriction and/or election requirem

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

20) ☐ Other:

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## DETAILED ACTION

### *Election/Restriction*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-10, drawn to an apparatus (containment vessel for a nuclear reactor), classified in class 376, subclass 293.

II. Claims 11-14, drawn to a process (method of operation of a condenser in a nuclear power plant), classified in class 376, subclass 283.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed can be used to practice another and materially different process such as emergency cooling of the reactor during a loss of coolant casualty. Furthermore the process as claimed can be practiced by another materially different apparatus such as those disclosed in the specification (see page 4, lines 5+).

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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4. Upon election of invention I or II, the applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, claim 1 appears to be generic to invention I and claim 11 appears to be generic to invention II):

A. The embodiment wherein the condenser is located within the interior of the reactor containment building.

B. The embodiment wherein the condenser is located within the exterior of the reactor containment building.

5. Upon election of invention A or B, the applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, claim 1 appears to be generic to invention I and claim 11 appears to be generic to invention II):

a. Embodiment wherein the drain pipe is permanently open (i.e., no valves, slides or shut-off means).

b. Embodiment wherein the drain pipe is not permanently open (i.e., valved system).

6. Upon election of invention a or b, the applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, claim 1 appears to be generic to invention I and claim 11 appears to be generic to invention II):

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i. Embodiment wherein the bottom end of the drain pipe is immersed in the condensing chamber fluid.

ii. Embodiment wherein the bottom end of the drain pipe is not immersed in the condensing chamber fluid (i.e., located above the fluid level of the condensing chamber).

7. Upon election of invention i or ii, the applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, claim 1 appears to be generic to invention I and claim 11 appears to be generic to invention II):

(1) Embodiment wherein the condenser is not located within the building condenser (cooling basin) (i.e., connected fluidically via piping).

(2) Embodiment wherein the condenser is located within the building condenser (cooling basin).

9. Upon election of invention i, the applicant is further required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, claim 1 appears to be generic to invention I and claim 11 appears to be generic to invention II):

AA. Embodiment wherein the condensing chamber further includes a condensing pipe.

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BB. Embodiment wherein the condensing chamber does not include a condensing pipe.

11. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement (e.g., I, A, a, i, (1), and AA), listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

8. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack Keith whose telephone number is (703) 306-5752. The examiner can normally be reached on Monday through Friday from 7:00 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone, can be reached on (703) 306-4198. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

jwk

October 18, 2001

  
MICHAEL J. CARONE  
SUPERVISORY PATENT EXAMINER